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MAILED
FROM DIRECTORS OFFICE

OCT 07 2004

TECHNOLOGY CENTER 3600

In re Application of
Byron Young
Application No. 10/028,853
Filed: December 21, 2001
For: BAG/BED ASSEMBLY

DECISION ON PETITION
TO WITHDRAW THE
HOLDING OF ABANDONMENT

This is in reply to applicant's petition to withdraw the holding of abandonment under 37 CFR 1.181, filed in the United States Patent and Trademark Office, on June 10, 2004.

The petition is **DISMISSED**.

A review of the file record reveals that a Notice of Allowability and Notice of Allowance and Issue Fees Due (hereinafter "Notices") were mailed to applicant on January 12, 2004. Since the issue fee was not received before the expiration of the three month statutory period for reply, the application was held abandoned, and a Notice to that effect was mailed on May 26, 2004.

Petitioner states that the Notices were never received.

There is a strong presumption that Office communications properly addressed and delivered to the United States Postal Services, are in fact delivered to the addressee. An allegation that the Office communication was not received must be overcome by a showing that it was not received.

The showing required to establish non-receipt of an Office communication must include all of the following requirements:

- (1) A statement from the practitioner stating the Office communication was not received by the practitioner;
- (2) A statement attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received; and
- (3) A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.

The docket records indicated above must include a copy of the list of all responses of the firm of Felsman Bradley Vaden Gunter & Dillon LLP with the due date of April 12, 2004. See Notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 OG 53 (November 16, 1993).

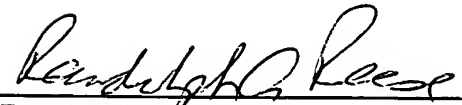
The petition fails to adequately meet requirements (2) and (3) above.

As per requirement (2), the petition does not state that a search of the file jacket and all docket records of the firm of Bowers Harrison, LLP was conducted.

As per requirement (3), no copy of all responses of the firm of Bowers Harrison, LLP with the due date of April 12, 2004 was provided.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.181."

Correspondence with respect to a Petition to Withdraw the Holding of Abandonment under *Delgar Inc. v. Schuyler* should be mailed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.



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RAR/vdb: 8/10/04